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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,768	10/12/2005	Adolf Ramusch	AT 030017	2215

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
EASTWOOD, DAVID C	

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
03/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/552,768	RAMUSCH ET AL.	
	Examiner	Art Unit	
	DAVID EASTWOOD	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. Claims 1 and 4 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 and 12 of copending Application No. 10552770. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to the same inventive entity comprising a depilation device constructed to hold a roll of depilation tape and an adjustable heating device which when used in cooperation with the depilation tape softens the depilation material for easier application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by L.L. Magnus et al (US 2480252).

Regarding Claim 1, Magnus discloses *a depilation device comprising a housing* (1,2) *and a reel* (7) *said reel* (7) *being supported in the depilation device so as to be rotatable about a reel axis and being provided and constructed for accommodating a tape roll formed by winding up of a depilation tape* (6), *wherein*

the reel (7) performs a dual function and is designed both for unreeling the depilation tape (6) *from the tape roll present on the reel* (7) *so as to apply a portion of the depilation tape* (6) *to the skin of a person, and also for winding up the depilation tape* (6) *onto the tape roll present on the reel* (7) *so as to pull off a portion of the depilation tape* (6) *previously applied to the skin of a person from the skin of this person again, and wherein the reel* (7) *can be driven into rotation by drive means* (1 6,17,18,19) *during winding up of the depilation tape* (6), *and wherein the reel* (7) *can be driven into rotation by the depilation tape* (6) *during unreeling of the depilation tape* (6) *without being hampered by the driving means* (1 6,17,18,19)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over L.L. Magnus et al (US 2480252) as applied to claims above in view of Bosland (US 3802309) in view of Murayama et al (US 5850979).

Regarding Clam 2, Magnus discloses the claimed invention except for the drive means comprise an electric motor.

However Bosland discloses a tape dispenser driven by an electric motor (Column 2 lines 59-64). It would have been obvious to one of ordinary skill in the art at the time

of invention to modify the invention of L.L. Magnus with the electric motor as disclosed by Bosland. Doing so would provide a drive means for automatically dispensing tape.

Regarding Claim 3, the invention of Magnus as modified by Bosland discloses the claimed invention except for a first gear is fixedly mounted on the motor shaft, wherein the drive means are formed by a gear transmission comprising the first gear, which gear transmission comprises an end gear which is in engagement with a toothed rim of the reel, and wherein one gear of the gears of the gear transmission is adjustably supported by an adjustable carder and can be brought thereby out of engagement with an adjoining gear of the gear transmission so as to avoid that the unreeling of the depilation tape is hampered by the drive means.

However, Murayama discloses a first gear (116),wherein the drive means (105) are formed by a gear transmission comprising the first gear, which gear transmission comprises an end gear (105) which is in engagement with a toothed rim (116) of the reel, and wherein one gear (105) of the gears of the gear transmission is adjustably supported by an adjustable carder (108,109) and can be brought thereby out of engagement with an adjoining gear (105) of the gear transmission (figure 19) (Column 14 lines 48-50). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Magnus as modified by Bosland with the adjustable clutch type transmission as disclosed by Murayama et al. Doing so would provide a means for adjusting the amount of tape dispensed from the device.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over L.L. Magnus et al (US 2480252) as applied to claim 1 above in view of Collins (US 2929907).

Regarding Claim 4, Magnus discloses the claimed invention except for the depilation device is provided and constructed for operation with a depilation tape comprising a hair removal medium that can be softened by heating, wherein the depilation device comprises a heating device to which the depilation tape unreeled from the reel can be supplied and by means of which the relevant tape portion of the depilation tape co-operating with the heating device can be heated for the purpose of softening the hair removal medium before the depilation tape is applied with its hair removal medium to the skin of a person, wherein the heating device is mounted with adjustment possibility between a rest position and an operational position, is lifted off the depilation tape in its rest position, and is in thermally conductive contact with the depilation tape in its operational position, and wherein adjustment means are provided for adjusting the heating device, said means being capable of positioning the heating device in its operational position during unreeling of the depilation tape from the reel and of positioning the heating device in its rest position during winding up of the depilation tape onto the reel.

However, Collins discloses a device for dispensing heat activated strips which comprises a heating device (40) with adjustment means (41) and an adjustment means (50) for moving from a rest position to a operational position when the tape is passed across the heating element (Figure 1) (Column 3 lines 70-74) (Column 4 lines 1-10 and

20-24). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Magnus with the adjustable heating mechanism as taught by Collins. Doing so would provide a device which softens the hair removing material before application.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over L.L. Magnus et al (US 2480252) as applied to claim 1 above in view of Collins (US 2929907) further in view of C.E. Magnus et al (US 2423245).

Regarding Claim 5, the invention of L.L. Magnus as modified by Collins discloses the claimed invention except for the application roller is adjustably mounted and forms part of the adjustment means whereby the application roller is held in its adjusted position.

However, C.E. Magnus discloses an adjustable spring (32) and roll (30) which is used for application of depilation tape to the skin (figure 6) (Column 4 lines 40-50 and lines 65-71) It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of L.L. Magnus as modified by Collins with the adjustable head as taught by C.E. Magnus. Doing so would provide tension across the skin while the depilation tape is being applied to the skin after being fed across the heating device as taught by Collins.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rogatschnig (US 6350268), Waldner (US 6416521), Sanchez-Martinez (US 6740097), Taghaddos (US 6939354), Coffin (US 7200936).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID EASTWOOD whose telephone number is (571)270-7135. The examiner can normally be reached on Monday thru Friday 9 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DAVID EASTWOOD/
Examiner, Art Unit 3731

/Anhtuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
3/10/09